D.B. CIVIL CONTEMPT PETITION NO.117/2006

Bhanu Singh Vs. Shri Ratan Singh & Ors.

Date : 28.08.2006

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. Pramendra Bohra for the petitioner.

BY THE COURT: (PER HON'BLE RAJESH BALIA, J.)

There is no dispute that in pursuance of the directions to comply with the provisions of Section 17-B, the workman has been paid the full wages last drawn by him while he was in service.

The contention of the learned counsel for the petitioner is that the expression “full wages last drawn” used in Section 17-B means full wages which would have been drawn by the workman had he continued in service that is to say as revised from time to time.

This contention of the learned counsel for the

applicant is devoid of any force in view of the clear pronouncements of the Supreme Court in Dena Bank Vs. Kirti Kumar **AIR 1998 SC 511** stating that expression "full wages last drawn" cannot be given extended meaning so as to cast additional burden on the employer than what was envisaged as subsistence allowance not liable to be refunded to the employer and recovered from the workman. In the aforesaid decision, the Supreme Court explained the meaning of expression "full wages last drawn" under Section 17B of the Industrial Disputes Act, as under:-

> "The object underlying the provision is to relieve to a certain extent the hardship that is caused to the workman due to delay in the implementation of the award. The payment which is required to be made by the employer to the workman is in the nature of subsistence allowance which would not be refundable or recoverable from the workman even if the award is set aside by the High Court or this Court. Since the payment is of such character Parliament thought it proper to limit it to the extent of the wages which were drawn by the workman when he was in

service and when his services were terminated and therefore used the words “full wages last drawn”. To read these words to mean wages which would have been drawn by the workman if he had continued in service if the order terminating his services had not passed since it has been set aside by the award of the Labour Court or Industrial Tribunal, would result in so enlarging the benefit as to comprehend the relief that has been granted under the award that is under challenge. Since the amount is not refundable or recoverable in the event of the award being set aside it would result in the employer being required to give effect to the award during the pendency of the proceedings challenging the award before the High Court or the Supreme Court without his being able to recover the said amount in the event of the award being set aside. We are unable to construe the provisions contained in Section 17-B to cast such a burden on the employer.”

In view of the aforesaid, this petition cannot be carried on further.

The reliance placed by the learned counsel on the Bench decision of Andhra Pradesh High Court in The Management of M/s Praga Tools Limited (Personnel and Administration) Holding Officer at Kavadiguda, Secunderbad Vs. Chairman-cum-Presiding Officer, additional Mgmt. Of M/s Praga Tools Ltd. V. Chairman-cum-).(A.P.) Industrial Tribunal-cum-Additional Labour Court Hyderabad 1995(8)SLR 327 and Single Bench decision of this Court in Rajasthan State Industrial Development and Investment Corporation Ltd., Jaipur Vs. Rewadram Meena and others 1998(2) WLC 652 which has placed reliance on the aforesaid decision of the Andhra Pradesh High Court cannot be considered, any longer good law.

Accordingly, notices are discharged. The contempt petition is dismissed.

[GOPAL KRISHAN VYAS], J. [RAJESH BALIA], J.

babulal/